



**Meeting:** Council

**Date:** 30 October 2014

**Wards Affected:** All Wards in Torbay

**Report Title:** Review of Enforcement and Prosecution Policy for Environmental Health, Trading Standards, Licensing and Housing Standards

**Is the decision a key decision?** No

**When does the decision need to be implemented?** Immediately

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## 1. Purpose and Introduction

- 1.1 The Community Safety Business Unit has had an Enforcement and Prosecution Policy for many years. This policy has been reviewed in light of recent statutory guidance.
- 1.2 The purpose of our regulatory activities is to protect the safety and health of residents and visitors in Torbay, to reduce crime and the fear of crime and to protect consumers. Enforcement is one of the ways we achieve these goals. However, enforcement is a very broad term which covers a large spectrum of work and includes offering advice and information through to bringing prosecutions for more serious offences.
- 1.3 Fair and effective enforcement is essential to protect the economic interests and health, safety and welfare of the public, businesses and the environment. Decisions about enforcement action and in particular the decision to prosecute has serious implications for all involved. The revised Enforcement & Prosecution Policy will be applied to ensure that:
  - Decisions about enforcement action are fair, proportionate and consistent; and
  - Everyone understands what principles are applied when enforcement action is considered.
  - By applying the same principles we can ensure that decisions mean fair and effective treatment for everyone.
  - That each case will be considered on its own merits, and a blanket approach will not be applied.

## **2. Proposed decision**

- 2.1 That the Enforcement and Prosecution Policy set out at Appendix 1 to the submitted report be approved.

## **3. Reason for decision**

- 3.1 The previous Enforcement and Prosecution Policy was reviewed in 2008. In light of recent legislative requirements and new guidance to local authorities the policy has been reviewed to take the new information into account. Local authorities are required to prepare and publish an enforcement policy for all their duties covered by the Compliance Code.
- 3.2 An important element of applying enforcement options to any situation is to have a clear policy in place to ensure that the decision making process is transparent, fair, consistent and proportionate to the risks created by the offence.
- 3.3 The new Regulators Code issued under the Legislative and Regulatory Reform Act 2006 requires regulators to have regard to the Code when developing policies and operational procedures that guide their regulatory activities.

The key principles of the Code are:

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow;
2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views;
3. Regulators should base their regulatory activities on risk;
4. Regulators should share information about compliance and risk;
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
6. Regulators should ensure that their approach to their regulatory activities is transparent.

## **4. Position**

- 4.1 The new Enforcement and Prosecution Policy will update the existing requirements and ensure that the Council has taken account of the most up to date statutory requirements. There are no costs associated with this change.

## **5. Possibilities and Options**

- 5.1 The new Enforcement and Prosecution Policy has been consulted on and meets the requirements of the new Regulators Code. If an alternative is to be considered, further consultation will be required.

## **6. Fair Decision Making**

6.1 A six week consultation was carried out over the summer 2014 with key stakeholders as detailed in Appendix 2. From this consultation there were only 2 responses. An equality impact assessment for this policy is included at Appendix 3.

## **7. Public Services (Social Value) Act 2012**

7.1 This proposal is not procuring a service and therefore the Public Services (Social Value) Act does not apply.

## **8. Risks**

8.1 There are no significant risks if the proposed decision is implemented. However, if the new Enforcement and Prosecution Policy is not implemented the Community Safety Team will not be able to demonstrate it has appropriately taken account of the Regulators Code.

## **Appendices**

Appendix 1 New Enforcement and Prosecution Policy

Appendix 2 List of stakeholders consulted with

Appendix 3 Equality Impact Assessment 2014

Background Papers:

- Regulators code